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# **Belated labour reform: Australia and the abolition of Asian indenture**

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*The abolition of indentured labour and the rejection of so-called 'coloured' labour was a central concern of the first parliament of Australia, following Federation. An exception was made, however, for the pearl-shelling industry which continued to import Asian indents despite concerns that this undermined the White Australian agenda. In the 1950s Australian government support for indentured labour remained steadfast ignoring growing international criticism. The dismantling of the indenture system in the late 1960s was a belated attempt at labour reform. Government debates, however, reveal that the liberalisation of labour policy masked a continued desire to limit Asian immigration.*

The international abolition of indentured labour was a drawn-out process, beginning in the nineteenth century and reaching its peak in the first decades of the twentieth century. Scholars of indenture, such as David Northrup and Kay Saunders suggest that the indenture system was in decline by the 1920s.<sup>1</sup> A 1994 ILO publication, however, stated that indentured labour survived the longest 'in the Dutch colonies where the Coolie Ordinance remained in force until 1941'.<sup>2</sup> In this paper I argue that Australia, despite its much-vaunted image as a country of early labour reforms, maintained the officially sanctioned use of indentured Asian labour until the early 1970s. This belated reform was examined by Adrian Cunningham in his unpublished 1992 Masters' thesis which argued that indenture in the pearl-shelling industry lasted until 1962. Cunningham's conclusion was partially influenced by the fact that 1962 was the last year of open archival records, under the thirty-year restriction applying to government files.<sup>3</sup> I will revisit this topic, taking advantage of a further ten years of archival documents in order to demonstrate that it was not until the 1970s that indenture was officially abandoned in Australia and that this delay can be largely explained by the continued desire, on the part of the Australian government, to restrict Asian immigration.

## **Unfree labour in Australia**

The use of indentured labour in Australia is inextricably connected to changes in immigration policy. The chronology of Australian immigration history can be loosely divided into the colonial or pre-Federation period, prior to 1900; the White Australian period from 1901 to 1975; and the supposedly non-discriminatory, 'Multicultural' period after 1975. It is widely assumed that the practice of indenture relates to the pre-Federation period. The largest group of indentured labourers in Australia was the Melanesians and Asians employed in the Queensland sugar industry between 1863 and 1904. The Federation years mark the transformation of the Australian labour system. Raymond Markey notes that from the 1890s to 1904 there was a 'phasing out of unfree labour systems in Australia' brought about by the political organization of the labour movement.<sup>4</sup> Federation coincided with the abolition of indentured labour in the sugar industry, formalised in the Pacific Islanders Act of 1901. In addition, the Immigration Restriction Act of 1901 was intended to restrict the importation of 'coloured' labour. Because of the publicity surrounding the 1901 legislation it is generally believed that indenture was an anathema to the new Australian nation. Nevertheless, it is clear that unfree labour remained and that it continued to be sanctioned by the state.

Though not described as indenture, the system of employment of Aboriginal workers in Australia was a form of unfree labour which survived into the post-war period.<sup>5</sup> Aboriginal workers could be forced into employment and failure to obey employers could lead not only to penal sanctions with hard labour, but to unofficial corporal punishment meted out by employers.<sup>6</sup> Australia's colonial administration of Papua New Guinea also retained the indenture system until 1950. Peter Fitzpatrick has argued that the 'agreement system' which replaced indenture, was essentially the same system by a different name. The penal provisions were repealed, but they were replaced with alternative sanctions whereby court action could terminate a worker's contract and have 'damages' paid to the employer out of the worker's deferred pay. The agreement system survived into the 1970s.<sup>7</sup>

The pearl-shell industry was the only industry to be exempted from the Immigration Restriction Act of 1901. Unlike the Aboriginal and Papuan examples, the Australian pearl-shelling industry employed indentured workers from Asia, thus promoting a traditional colonial form of labour migration. Japanese, Indonesian, Filipino, Malayan and Chinese indents were employed in the north Australian ports of Darwin, Broome and Thursday Island from the late 1800s. Pearlshelling masters were permitted to import Asian divers, tenders, and crew under indenture contracts. The exemption was controversial given that both coloured labour and indentured labour were contrary to spirit of the new Australian nation.<sup>8</sup> The controversial nature of the pearl-shelling industry has been discussed in the works of David Sissons and J.S. Bach and more recently Regina Ganter writing on the Queensland industry.<sup>9</sup>

Under the Fisher Labor government the pearl-shelling exemption was revoked. New legislation decreed that no licences would be issued after 1912, unless both the divers and tenders were European.<sup>10</sup> After protests from the pearling masters, extensions were granted and Prime Minister Andrew Fisher appointed a Royal Commission headed by F. W. Bamford to investigate. The commission began with the intention of supporting a white labour policy, but in 1913, the Liberal government appointed a new commissioner. The final report in 1916 came down in favour of the continued use of indentured labour.<sup>11</sup>

The 1916 report argued that the pearl-shell industry was not suitable for white divers, stating:

The life is not a desirable one, and the risks are great, as proved by the abnormal death rate amongst divers and try divers. The work is arduous, the hours long, and the remuneration quite inadequate. Living space is cramped, the food wholly preserved of its different kinds, and the life incompatible with that a European worker is entitled to live.<sup>12</sup>

J. S. Bach, writing in 1956, argued that by continuing to accept 'coolie' labour the federal government had undermined the moral authority of White Australia.<sup>13</sup> Certainly the exemption demonstrated that government's real concern was to exclude coloured immigrants rather than to abolish exploitative labour practices. The supporters of indentured labour argued that there was no danger of 'racial contamination' as the pearl-shelling crews spent little time on shore and repatriation would prevent them from becoming permanent residents.<sup>14</sup> Labour interests were assured that the controls built into the system would prevent Asians from competing with white workers in other fields.

The exemption was ultimately a pragmatic concession to the pearling masters who had threatened to take their pearl-shelling fleets to the Dutch East Indies if they were denied access to Japanese divers.<sup>15</sup> The continuation of indenture was clearly influenced by the proximity of Australia's northern pearling beds to the eastern islands of the Dutch East Indies, where indentured labour was readily available.

During the period from 1916 to 1940 there was almost no state opposition to the continued practice of indenture in this period. Government inspectors were appointed to regulate the industry but more often they were given the task of controlling and restraining the workers, rather than protecting their interests. The 1930s saw an increase in labour movement interest in the conditions of indenture, but by and large, this interest was aimed at protecting the employment conditions of white workers. In this atmosphere of *laissez faire*, the pearling masters were at liberty to treat indentured workers as they saw fit. The only restraints on employers were those imposed by workers themselves through their local organisation and, in the case of the Japanese, through the efforts of agents in Japan.<sup>16</sup>

### Postwar debates

During World War II, the pearl-shelling industry was largely abandoned. In 1946 Labor Prime Minister Ben Chifley officially opposed the resumption of indenture but nevertheless, in 1947, he allowed Streeter and Male in Broome to import fifty-seven indents from Malaya, Indonesia and Timor.<sup>17</sup> The Chifley government initiated an investigation into the conditions of indenture and a 1949 report concluded that the treatment of indents was in breach of the Draft Covenant of the International Commission on Human Rights, which Australia had helped to draft. This report might have signalled the end of indenture, but for the fact that the Labor Party lost government soon after the report was submitted.<sup>18</sup> The Menzies' Liberal-Country Coalition government allowed indenture to resume, despite the fact that it was clearly an outdated colonial form of labour practice. In the 1950s Australia's indenture system drew international criticism and some international support.

Postwar debates centre largely on the industry in Western Australian and the Northern Territory. As Regina Ganter has argued, in Queensland the government sought to reserve the fishery for Torres Strait Islanders, rather than relying on imported labour.<sup>19</sup> In 1958, 162 Ryukyuan 'specialists' were introduced in a brief and unsuccessful venture. A 1960 report by the Department of Primary Industry stated that two had died while diving, seventy had been returned to Okinawa shortly after arrival because they were deemed unsuitable for the work and thirty-three had returned to Okinawa in 1960 at the end of their contract.<sup>20</sup>

### Indonesia

The newly formed, independent government of the Republic of Indonesia was particularly sensitive to the continued practice of colonial-style recruitment. In August 1950 the Indonesian Embassy contacted the Australian Department of the Interior to express concern that Indonesian nationals in Darwin were being paid less than the official basic wage. Since the 1920s there had been a general acceptance of an Australian minimum wage based on the cost of living. In its early formulation in 1906, H.B. Higgins, president of the Commonwealth Arbitration Court, determined that the minimum wage was necessary to ensure that a worker could live as a 'human being in a civilized community'.<sup>21</sup> By denying Indonesians the basic wage the pearl-shelling industry was effectively excluding them from that 'civilized' community.

The Australian government took no action to address Indonesian concerns. Frank Anderson in the Fisheries Division argued that an increase in wages was not advisable and that there was no need for any official regulation of wages.<sup>22</sup> In January 1952 the Indonesian government appointed Mr Ohh Sien Hong, a UNESCO



Fellow conducting research into industrial arbitration in Melbourne, to investigate working conditions in Broome and Darwin. His report concluded that conditions were 'shameful', that indents were living in over-crowded camps, and were virtual prisoners of their employers. Public reports in Indonesia emphasised the discrimination and victimisation of indents in Australia and criticised the restrictions placed on the movements of workers.<sup>23</sup>

By March 1952, the Indonesian Government was considering banning Indonesian pearl-shelling indents from working in Australia. The Indonesian government was similarly reluctant to permit indenture to New Caledonia until a more humane code of labour had been established there.<sup>24</sup> The Indonesian Embassy contacted the Department of Immigration in 1952 to request that indents be permitted a short period away from the pearling bases during the lay-up season. There was cautious approval from the Department of External Affairs and most of the pearling masters, but opposition from local officials in Darwin and Broome. The Commonwealth Migration Officer in Darwin argued against holiday leave, describing the indents as 'persons of low mentality' who would be unable to comprehend that they must abide by the set conditions of leave. It was also argued that if some indents were granted permission while other were rejected this would only 'add to the already existing discontent and difficulty of control and administration of the industry'.<sup>25</sup> The pearling masters and the Sub-Collector of Customs in Broome similarly argued that the indents could not be trusted to return and that their services were required for the maintenance of pearling luggers.

The Immigration Department finally agreed that leave would be approved on the basis of the individual merits of the applicant and only with the approval of the local Immigration official. This decision made it unlikely that pearling indents would be granted leave. As a result of the Australian government's response, the Indonesian government imposed a ban on the importation of indents from Indonesia to Australia.<sup>26</sup>

A confidential report to the Australian Cabinet in 1954 indicated that the government still hoped to gain access to Indonesian indents, particularly as the other source countries were also reluctant to provide labour.<sup>27</sup> In 1955 the Indonesian government requested that a formal agreement be entered into between Australia and Indonesia, to be modelled on the agreement made with the French government in relation to Indonesians in New Caledonia. But the Australian government protested that the New Caledonian agreement had a range of provisions which were 'not applicable to Australian conditions'. In particular, the provisions for family migration and permanent settlement went against the immigration restriction tenets of the White Australia policy.<sup>28</sup> A second issue of contention was the demand that Indonesian crews be paid the equivalent to the Australian basic wage. The Administrator of the Northern Territory dismissed this demand as 'unreasonable'.<sup>29</sup>

With the two governments unable to come to an agreement the matter was closed and Indonesian indenture to Australia was ended. It is important to recognise that the end of indenture in this instance had nothing to do with Australian reforms, on the contrary, it resulted from the Australian government's refusal to meet the very reasonable demands of the Indonesian government.

## Malaysia

With Indonesian indents gone, the Australian government looked to Malaysia for workers. In May 1952 the Department of External Affairs was informed that the Malay Seamen's Union had no workers available to take up work in Australia. The Australian government had been obliged to deal directly with the Malay Seamen's Union since the recruiting agent in Singapore, Guthrie & Co., had announced its reluctance to continue handling the dispatch of pearling indents. The Malay Seamen's Union requested that conditions for deck hands include transport to and from Australia, a salary of £20 to £25 per month to be paid during the whole period away from Singapore, and \$2.00 per day subsistence while waiting to leave Singapore.<sup>30</sup> The wage scale set by the Malay Seamen's Union was still only half of the Australian basic wage which, at that time was approximately £13 per week.

The Malay workers continued to agitate for reform. From September 1954 to March 1955 the Malays in Broome went on strike. Five strike leaders were jailed for one week and then repatriated in October 1954. They returned to Singapore and contacted the Malay Seamen's Union which in turn wrote to Singapore's Colonial Secretary. This incident resulted in bad publicity in Malaya for Australia.<sup>31</sup> The Australian Commission contacted the Department of External Affairs again in March 1955, having received representations from the Malay Seamen's Union and from the Malaya newspaper *Utusan Melayu* regarding six Malay pearl divers who were stranded in Broome. The indents were waiting to be repatriated as punishment for their participation in the strike of November 1954 and had been left without financial support for the intervening period.<sup>32</sup>

Unlike the Indonesian government, the British colonial government did not respond to the concerns of the Malayan unions and took no steps to end the indenture of Malays to Australia.<sup>33</sup> With the transition to an independent Malaysian government in 1957 there was still no action taken to abolish indenture. It is possible that the small numbers of workers involved meant that they lacked sufficient political presence. Certainly a visit of Australian trade unionists to Kuala Lumpur in June 1957 failed to raise the issue of indenture. The Australian trade unionists were impressed with the work of Malaysian trade unionists and expressed a wish to be of more help to 'our neighbours', but the brief visit, the first ever by an Australian delegation, was insufficient to engage in any serious discussions.<sup>34</sup>

There was no evidence of a change in practices in Australia in response to the advent of independent Malaysia. Complaints of poor working conditions in Australia were again reported in 1962. A letter to the Australian High Commission in Kuala Lumpur from a diver explained that wages had been cut from 1960 to 1961 and that they had been retained in Broome for several months without pay after completing their contract.<sup>35</sup> An inquiry into the pay scale in Broome found that pearling crews were paid a starting wage of £17 per month plus additional amounts of 'lay' calculated according to the catch size. For 20 tons the wage was £24 per month, still less than half the basic Australian wage.<sup>36</sup>

Malaysians and Singaporeans continued to be recruited to Australia into the early 1970s. In December 1970 the Australian government noted that while Malays were no longer employed in Darwin, they had become the main source of labour for Broome. The pearl-shelling company, A. S. Male & Co employed 15 Japanese and 45 Malays in 1970. This was the same company that had been criticised in worker protests in 1954 and 1962.<sup>37</sup>

### Hong Kong

The response of the British government of Hong Kong to Australian indenture practices was more critical. In 1955 seventeen Chinese pearling indents in Broome sent a letter to the Commissioner of Labour in Hong Kong. They complained that after three months in Broome they had been given no copy of the written contract, though they had signed up for a two year contract. They were forced to work nine months at sea and during that time were woken at four am to start at five am and continued without break until six pm. They were also made to work on Saturdays and Sundays. They also claimed that the pearling companies did not provide food on a regular basis.<sup>38</sup>

The Hong Kong Commissioner of Labour, P. C. M. Sedgwick, responded immediately, writing to H.C. Menzies, the Australian Government Trade Commissioner in Hong Kong. Sedgwick pointed out that the United Kingdom had ratified the International Labour Organisation (ILO) Conventions No. 50 (Recruiting of Indigenous Workers), No. 64 (Contracts of Employment (Indigenous Workers) and No. 86 (Contracts of Employment (Indigenous Workers) and that these applied to Hong Kong without modification. He wrote: 'It is understood that none of these Conventions has yet been ratified by the Australian Government.' He listed the required conditions for Hong Kong contracts which included reasonable working hours; overtime and holidays; and workers' compensation.<sup>39</sup>

The Australian government dismissed the complaint with the Department of Commerce and Agriculture stating that labour conditions in the pearl-shelling industry were 'a matter for negotiation between the master pearl-ers and the operatives concerned'. The Commonwealth laid down certain conditions regarding the introduction of Asian pearling operatives, it did not 'under any circumstances, negotiate with any overseas Government or Government representatives regarding the wages or conditions of the operatives'.<sup>40</sup>

In 1957, when the Hong Kong administration was itself criticised by the ILO, the Australian government sought comfort from this evidence of British transgressions. The ILO Committee had drawn attention to Article 86 of the Convention which limited employment to two years if workers were unaccompanied by their families. The Hong Kong administration had contravened this article by extending contracts to North Borneo and Sarawak from two to three years. The Commissioner of Labour in Hong Kong sought clarification from London as to the extent to which he might 'exercise his discretion' in observing the ILO Convention. A Department of External Affairs' memorandum noted that 'Australia is not the only country where this problem has arisen'.<sup>41</sup> Australia's interest in avoiding ILO conventions was curious given that at the time Harold Holt, Minister for Labour and National Service, was the elected president of the ILO.<sup>42</sup>

### The end of indenture in Australia

In 1960 the traditional pearl-shelling industry had all but ended. With the introduction of plastic buttons, it became increasingly difficult to make a profit on pearl-shell.<sup>43</sup> The employment of indentured workers continued, however, in the new pearl-culture industry. The production of cultured pearls relied on technicians who worked on-shore, but it also required divers to supply the technicians with live pearl-shell. Almost all workers employed in pearl-culture were indentured Asians. Those employed on pearling luggers remained under the same system that had prevailed since the inception of the pearl-shelling industry.

At the end of 1969 a review of the immigration regulations relating to the engagement of indentured labourers dealt a final blow to the remaining pearling masters. The new regulations made two important changes. Firstly, it was recommended that all indents who could satisfy the criteria should be granted resident status. The requirements were residence in Australia for five years and proof of good character. Many experienced pearling indents were able to gain residency and were no longer obliged to remain in the pearl-shelling industry. But at the same time, the Department of Immigration took steps to ensure that no future indents could become eligible for resident status. The new regulations limited contracts to four years, after which indents were to be repatriated and not re-engaged for another four years.

Asian immigration policy in 1969 was that migrants should be 'well qualified and readily integrated'. Manual workers were regarded as unsuitable migrants, being supposedly less likely to 'assimilate' into the Australia way of life. According to the government, pearling indents were not 'the type of persons who would

'come within the revised non-European policy'. The only exception being if a pearling indent was married to an Australian resident.<sup>44</sup> The government was faced with conflicting interests. There was the clear need to reform the indenture system and to avoid discriminating against Asians in Australia. But at the same time Australia was not yet prepared to allow free Asian labour to migrate and eventually settle in Australia. Echoing the logic of 1901, the abolition of indenture served the dual purpose of restricting immigration and supporting labour reform.

In protesting the new policy in April 1970, pearling master, Haynes of A. C. Morgan Pty Ltd in Broome, argued that the Malays he recruited were without training and that it took a minimum of three years for them to become efficient divers. Regarding the offer of permanent residency, Haynes noted that life at sea was 'rigorous' and with job opportunity ashore 'almost boundless in Australia' why would they not take the chance to leave.<sup>45</sup> Fred Krissman has argued for nineteenth century California that Chinese workers were forced to work for low wages because they were denied citizenship rights and were prevented from legally engaging in independent economic activities.<sup>46</sup> By removing these restrictions in 1969, the Australian government was making the indenture system redundant. The Immigration Department report concluded that 'what the pearlers really want is a stable, docile and obedient work force' and tone suggested that this was no longer acceptable to the Australian government.<sup>47</sup>

In response to protests from pearling masters, the Department of Immigration held an Inter-Departmental meeting in July 1970. It was concluded that the industry in Broome warranted special consideration because Broome was economically dependent on pearl-shelling. The pearl-culture industry was potentially worth up to \$A10 million per annum and it depended upon traditional pearl-shell diving for its live shell. But whilst acknowledging the economic benefits, the meeting was unable to agree to the resumption of the previous system, in view of the 'outdated' nature of indenture'.<sup>48</sup> Echoing the 1916 Royal Commission, the report stated:

it is clear that employees in the pearling industry generally work long hours, under arduous conditions, in isolated areas under what would generally be regarded as unsatisfactory living conditions.

Furthermore it was acknowledged that some indents were still receiving rates below the minimum adult wage. The Western Australian port of Broome was regarded as the worst offender, but in the Northern Territory, where indents were supposedly covered by the 1955 Northern Territory Pearl Fishing Award, employers were also failing to pay Award wages. An Arbitration Inspector sent to investigate reported back that the Award was being taken to refer only to crew members in the most narrow sense and that other indents, such as divers were not covered by the Award.<sup>49</sup> The report concluded that 'employment contracts under which overseas workers are introduced are well out of date and include a number of restrictions on the freedom of the individual which would attract criticism in the light of present day attitudes'. It was recommended that an extensive investigation be undertaken.<sup>50</sup>

By 1970 the number of Asian employed under indenture was small. There were 101 indents employed in pearl-fishing in December 1970.<sup>51</sup> Immigration officer, B.H. Barrenger, wrote in 1971 that he had no doubt 'that Europeans would not accept the employment conditions even with a substantial increase in pay rate'. He acknowledged that the new immigration rules would mark 'the finish of the previous era' in which overseas workers provided 'relatively cheap labour, completely subservient to the employer'.<sup>52</sup>

The end of indenture in Australia was a deliberately quiet affair. Public opinion on issues of social justice and Asian immigration had changed rapidly in this period and the government was hopeful that their confidential reports would not be made public. It would be difficult to attribute the end of indenture to any particular social movement or lobby. The importation of workers under indenture had already been made difficult by the steps taken by supplying nations. Furthermore, the pearling masters had lost some of their political power with the decline of the importance of the pearl-shell industry.

The final phase came in late 1972, when the Labor Party, led by Gough Whitlam, was elected to government for the first time in 18 years. The new Immigration Minister Al Grassby oversaw the official dismantling of the White Australia Policy and its discriminatory immigration legislation. In June 1973 Australia ratified the ILO convention No. 86, Contracts of Employment (Indigenous Workers) Convention, 1947, which stipulated that overseas work was limited to a two-year period for workers not accompanied by their families.<sup>53</sup> The government's archival reports relating to that decision remain closed by the 30-year rule, but the plethora of legislative reforms speak for themselves.

National history is often marked by a process of forgetting and Australia's support for the indenture system in the twentieth-century was quickly forgotten. In a speech made in 1975 Immigration Minister Grassby roundly condemned indenture. Referring to recent practice in Europe, he described 'gastarbeiter' or guest worker as the 'most obscene word in migration today'. He explained that he was under pressure from North Australia to introduce a system 'which would bring in workers for contract work for limited periods and then send them home again'. He argued that the 'gastarbeiter' system was 'a system which gave no rights, no citizenship, no permanence but took some of the workers' best years and in return sent them home when they were no longer needed'.<sup>54</sup> Grassby noted that the last time this had been tried in Australia with 'so-called contract labour it had given rise to the Queensland slave trade in Kanakas'. Nothing was said of the twentieth-century pearl-shelling industry practices.



## Conclusion

The history of indenture in Australia suggests that indenture survived, somewhat ironically, because of the strength of White Australian protectionism, the continuing acceptance of racial hierarchy as a means of determining working conditions, and a failure to take seriously the criticisms of Asian neighbours and the ILO. This paper reveals that such discriminatory attitudes remained prevalent for the greater part of the twentieth century. The continuation of indenture into the post-colonial period appears to be anachronistic, but in fact, the indenture system suited the purposes of successive Australian governments intent on protecting national boundaries from unwanted Asian immigration. While the records show that there was some belated concern over the fate of indentured workers, this was clearly a minor consideration. In this current period, in which statements about the non-discriminatory nature of post-1975 Australia are increasingly difficult to sustain, it seems appropriate to question the comfortable image of Australian labour history as one of early reforms and pioneering transformations.

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- 14 Ganter, *The Pearl-Shellers*, p. 62.
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